DEPARTMENT OF STATE REVENUE

01-20120034.LOF

Letter of Findings: 01-20120034
Sales/Use Tax and Personal Income Tax
For the 2009-2010 Tax Years

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Income Tax–Additional Income.

Authority: IC 6-3-1-3.5; IC 6-3-2-1; IC 6-8.1-5-1; Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue, 867 N.E.2d 289 (Ind. Tax Ct. 2007); I.R.C. 61; I.R.C. 62.

Taxpayers protest the imposition of Indiana adjusted gross income tax with respect to an increase to their reported adjusted gross income.

STATEMENT OF FACTS

Taxpayers, as husband and wife, filed joint income tax returns for the 2009 and 2010 tax years. Husband operated a home maintenance service company as a sole proprietorship and reported the income on Schedule C with their federal income tax returns. The Indiana Department of Revenue ("Department") conducted an audit of Taxpayers' income tax returns and assessed additional income tax, interest, and penalty for the tax years. The Department determined that Taxpayers had underreported their taxable income. Taxpayers protested. An administrative hearing was held, and this Letter of Findings results. Additional facts will be supplied as necessary.

I. Income Tax–Additional Income.

DISCUSSION

All tax assessments are prima facie evidence that the Department's claim for the tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1(c); Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007).

The Department determined that Taxpayers had underreported their income and made assessments of additional income tax. The assessments were made based upon the authority contained within IC 6-8.1-5-1(b), which states, "If the department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available."

Adjusted gross income tax is imposed on an individual's adjusted gross income in IC 6-3-2-1. Pursuant to IC 6-3-1-3.5, "Adjusted gross income" shall mean an individual's "adjusted gross income" as defined in Section 62 of the Internal Revenue Code with certain enumerated modifications. I.R.C. 62 defines an individual's "adjusted gross income" as gross income minus certain enumerated deductions. I.R.C. 61 defines "gross income" as all income from whatever source derived.

Taxpayers disagreed with the Department determination that Taxpayers had more income than Taxpayers reported. Taxpayers assert that they did not know that when they sold personal property that it counted as income and, therefore, did not keep the receipts or documents for these transactions. Taxpayers state that they have kept good records for their business and that they live more economically than the average family of their size as reported in the Consumer Expenditure Survey.

While the Department did use the Consumer Expenditure Survey during its investigation of Taxpayers, the Department did not use it to make the assessment. The Department compared the Taxpayer's reported income to the amount of expenditures that the Consumer Expenditure Survey reported a family of Taxpayer's size would make in a year. That comparison showed significant disparity between the amounts of income reported by Taxpayers and the amount a taxpayer would have needed to earn to have met their living expenditures for the year. Therefore, the Department decided to investigate further and derive a method to account for and address this disparity.

The Department applied the "Cash T Method" to Taxpayers' available information to arrive at a revised total audited income figure. Taxpayers' documentation presented during the audit was used to determine the amount of Taxpayers' actual expenses for the year ("actual expenses"). These actual expenses were compared to the amounts of reported federal income, documented loans, and/or other reported income ("reported income"). The difference between Taxpayers' actual expenses and Taxpayers' reported income is the figure the Department determined to be equal to the unreported income.

During the hearing, Taxpayers' presented a check register with hand-written notations regarding the transactions in the register. While the check register with hand-written notations attempted to close the gap between Taxpayers' reported income and the income determined by the audit, Taxpayers did not provide any additional documentation to support either these handwritten notations or their position regarding the underreporting of income.

A taxpayer has the obligation to prepare a careful, methodical, and detailed factual presentation of the evidence sufficient to refute the conclusions contained within the audit report. In order to meet its burden, a taxpayer must "walk" the Hearing Officer through each element of the taxpayer's proffered evidence; Taxpayer does not meet its burden by presenting a check register with hand-written notations, without invoices, receipts, or other supporting documentation. The check register with hand-written notations, without more, only serves as conclusory statements in the hope that the check register with hand-written notations will speak for itself.

Taxpayers' check register with hand-written notations and additional explanations proffered during the hearing do not sufficiently refute the information or the results reached in the Department's audit report. Pursuant to IC 6-8.1-5-1(c), all tax assessments are presumed to be accurate, and the taxpayer bears the burden of proving that an assessment is incorrect. Since Taxpayers failed to produce documentation that demonstrates that the Department's assessment was incorrect, Taxpayers have failed to meet their burden. Therefore, Taxpayers' protest is denied.

FINDING

Taxpayers' protest is respectfully denied.

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